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EXAMINER

LIU, I JUNG

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 09/976,750 | Applicant(s) TENORIO, MANOEL | |
| | Examiner MARISSA LIU | Art Unit 3694 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-30 and 33-54 is/are pending in the application.
- 4a) Of the above claim(s) 1-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 33 and 44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. The term "particular item" in claim 33 is a relative term which renders the claim indefinite. The term "particular item" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For the purpose of the Examination, the Examiner interprets "particular item" as "item".

4. The term "particular item" in claim 44 is a relative term which renders the claim indefinite. The term "particular item" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For the purpose of the Examination, the Examiner interprets "particular item" as "item".

5. The term "strike variable" in claim 33 is a relative term which renders the claim indefinite. The term "strike variable" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For the purpose of the examination, the examiner interprets "strike variable" as "variable".

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6. The term "strike variable" in claim 44 is a relative term which renders the claim indefinite. The term "strike variable" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For the purpose of the examination, the examiner interprets "strike variable" as "variable".

7. The term "strikes" in claim 33 is a relative term which renders the claim indefinite. The term "strikes" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For the purpose of the examination, the examiner interprets "strikes" as "variables".

8. The term "strikes" in claim 44 is a relative term which renders the claim indefinite. The term "strikes" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For the purpose of the examination, the examiner interprets "strikes" as "variables".

9. The term "strike" in claim 33 is a relative term which renders the claim indefinite. The term "strike" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For the purpose of the examination, the examiner interprets "strike" as "variable".

10. The term "strike" in claim 44 is a relative term which renders the claim indefinite. The term "strike" is not defined by the claim, the specification does not provide a standard for

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ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For the purpose of the examination, the examiner interprets “strike” as “variable”.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 33 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lupien et al., US Patent Number: 6,098,051 in view of Rickard et al., US Patent Number: 6,016,483.

13. Lupien et al. teaches computer-implemented method, comprising:
receiving bids for one or more items from a plurality of buyer computer systems (column 2, lines 5-9; column 27, lines 5-13; column 8; abstract); receiving asks for one or more items from a plurality of seller computer systems (column 2, lines 5-9; column 27, lines 5-13; column 8; abstract);
generating a plurality of representing a between a bid and an ask for a particular item, wherein the plurality of specify values for a plurality of variables (abstract; column 4, lines 27-48; column 2, lines 5-9; column 27, lines 5-13; column 8; Figs. 7 and Fig. 9 A);
determining a first value specified in one of the plurality of for a first variable (Figs. 2, 6-7 and 9A-9B; abstract; column 4, lines 27-48; column 2, lines 5-9; column 27, lines 5-13; column 8; column 12, lines 31-37);
determining a second value specified in one of the plurality of for a second variable (Figs. 2, 6-7

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and 9A-9B; abstract; column 4, lines 27-48; column 2, lines 5-9; column 27, lines 5-13; column 8; column 12, lines 31-37);

determining a third value specified in one of the plurality of for a third variable (Figs. 2, 6-7 and 9A-9B; abstract; column 4, lines 27-48; column 8; column 12, lines 31-37);

determining a fourth value specified in one of the plurality of for a fourth variable (Figs. 2, 6-7 and 9A-9B; abstract; column 4, lines 27-48; column 2, lines 5-9; column 27, lines 5-13; column 8; column 12, lines 31-37); and

communicating the determined values for the plurality of variables for the particular item to the buyer and seller computer system (Figs. 2, 6-7 and 9A-9B; abstract; column 4, lines 27-48; column 2, lines 5-9; column 27, lines 5-13; column 8; column 12, lines 31-37).

Lupien et al. does not teach: strike; strikes;

Rickard et al. teaches: strike (column 1, lines 55-61; column 3, lines 1-9); strikes (column 1, lines 55-61; column 3, lines 1-9).

Therefore, it would have been prima facie obvious at the time of the invention to have included strike and strikes feature to the method of Lupien et al., because Rickard et al. teaches that adding the feature helps determine a set of opening prices (abstract; columns 1-5).

14. As per claim 44, claim 44 is equivalent of claim 33. Please refer to claim 33 rejection described above.

15. Claims 34-43 and 45-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lupien et al., US Patent Number: 6,098,051 in view of Rickard et al., US Patent Number: 6,016,483, further in view of Official Notice.

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16. As per claim 34, Lupien et al. and Rickard et al. teach the method of Claim 33 described above. Lupien further teaches comprising:

generating a display of the received data, the display comprising:

a plurality of polygons, each polygon representing the between the bid and the ask, each polygon comprising first and second each associated with one or more different variables, a first dimension of the first reflecting the first value specified in the represented for the first variable, a second dimension of the first reflecting the second value specified in the represented for the second variable, a first dimension of the second reflecting the third value specified in the represented for the third variable, and a second dimension of the second reflecting the fourth value specified in the represented for the fourth variable (Figs. 2, 6-7, 9A-9B; column 4, lines 27-48, column 12 lines 31-37 and column 10, lines 53-64; abstract);

a variable axis representing a range of values for an additional variable for which no value is reflected in the, wherein the variable axis is vertical and each polygon is positioned with respect to the variable axis according to the value specified in the represented for the additional variable represented by the variable axis; and

a time axis that is perpendicular to the variable axis, each polygon being positioned with respect to the time axis according to a time at which the represented occurred (Figs. 2, 6-7, 9A-9B; column 4, lines 27-48, column 12 lines 31-37 and column 10, lines 53-64; abstract).

Lupien et al. do not teach: strike; strikes; contiguous parallelograms; parallelogram; parallelograms;

Rickard et al. teaches: strike (column 1, lines 55-61; column 3, lines 1-9); strikes (column 1, lines 55-61; column 3, lines 1-9).

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Therefore, it would have been prima facie obvious at the time of the invention to have included strike and strikes feature to the method of Lupien et al., because Rickard et al. teaches that adding the feature helps determine a set of opening prices (abstract; columns 1-5).

Official Notice is taken that contiguous parallelograms, parallelogram and parallelograms is old and well known in the business world as a convenient way for individual or company to display essential data in a visual view. Therefore, it would have been obvious at the time of the invention to have included contiguous parallelograms, parallelogram and parallelograms to the method of Lupien.

17. As per claim 35, Lupien, Rickard et al. and Official Notice the method of Claim 34 described above. Lupien et al. further teaches: wherein a user selects the variables for which values are reflected in and selects the additional variable represented by the variable axis (Figs. 2, 6, 9B and column 23-38).

Lupien et al. do not teach: strike; parallelograms;

Rickard et al. teaches: strike (column 1, lines 55-61; column 3, lines 1-9);

Therefore, it would have been prima facie obvious at the time of the invention to have included strike feature to the method of Lupien et al., because Rickard et al. teaches that adding the feature helps determine a set of opening prices (abstract; columns 1-5).

Official Notice is taken that parallelograms is old and well known in the business world as a convenient way for individual or company to display essential data in a visual view. Therefore, it would have been obvious at the time of the invention to have included parallelograms to the method of Lupien.

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18. As per claim 36, Lupien et al., Rickard et al. and Official Notice teach the method of Claim 34 described above. Lupien et al. further teaches wherein the method comprises switching the additional variable represented by the variable axis with one of the variables for which values are reflected in the in response to user input Figs. 2, 6 9B and column 23-60).

Lupien et al. do not teach: strike; parallelograms;

Rickard et al. teaches: strike (column 1, lines 55-61; column 3, lines 1-9);

Therefore, it would have been prima facie obvious at the time of the invention to have included strike feature to the method of Lupien et al., because Rickard et al. teaches that adding the feature helps determine a set of opening prices (abstract; columns 1-5).

Official Notice is taken that parallelograms is old and well known in the business world as a convenient way for individual or company to display essential data in a visual view. Therefore, it would have been obvious at the time of the invention to have included parallelograms to the method of Lupien.

19. As per claim 37, Lupien et al., Richard et al. and Official Notice teach the method of Claim 34 described. Lupien et al. does not teach: wherein the strike variables for which values are specified in the strikes comprise strike price, strike quantity, and at least one additional strike variable.

Official Notice is taken that strike variables for which values are specified in the strikes comprise strike price, strike quantity, and at least one additional strike variable is old and well known in the finance industry as a convenient way for individual or company to invest. Therefore, it would have been obvious at the time of the invention to have included strike

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variables for which values are specified in the strikes comprise strike price, strike quantity, and at least one additional strike variable to the method of Lupien.

20. As per claim 38, Lupien et al., Richard et al. and Official Notice teach the method of Claim 34 described above. Lupien further teaches wherein:

the variable axis represents a fifth variable and includes a range of values for the fifth variable (Figs. 2, 6-7 and 9A-9B).

the time axis is horizontal (Figs. 2, 6-7 and 9A-9B); and

each polygon is positioned with respect to the variable axis such that the border between the two forming the polygon is aligned with a point along the variable axis corresponding to the value specified in the represented offer for the fifth variable (Figs. 2, 6-7 and 9A-9B).

Lupien et al. do not teach: strike; contiguous parallelograms;

Rickard et al. teaches: strike (column 1, lines 55-61; column 3, lines 1-9); strikes (column 1, lines 55-61; column 3, lines 1-9).

Therefore, it would have been prima facie obvious at the time of the invention to have included strike feature to the method of Lupien et al., because Rickard et al. teaches that adding the feature helps determine a set of opening prices (abstract; columns 1-5).

Official Notice is taken that contiguous parallelograms is old and well known in the business world as a convenient way for individual or company to display essential data in a visual view. Therefore, it would have been obvious at the time of the invention to have included contiguous parallelograms to the method of Lupien.

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21. As per claim 39, Lupien et al., Richard et al. and Official Notice teach the method of Claim 38 described above. Lupien et al. teaches the fifth strike variable comprises. Lupien et al. does not teach: strike price. Rickard et al. teaches: strike price (columns 1-5).

Therefore, it would have been prima facie obvious at the time of the invention to have included strike price feature to the method of Lupien et al., because Rickard et al. teaches that adding the feature helps determine a set of opening prices (abstract; columns 1-5).

22. As per claim 40, Lupien et al., Rickard et al. and Official Notice teach the method of Claim 34 described above. Lupien et al. further comprising:

generating a filter comprising one or more criteria (Figs. 2, 6-7 and 9A-9B);

generating a first window within the display, the first window comprising polygons representing without regard to whether the meet the criteria within the filter (Figs. 2, 6-7 and 9A-9B); and

Lupien et al. does not teach: strike; strikes; generating a second window within the display, the second window comprising only polygons representing strikes that meet the strike criteria within the filter. Official Notice is taken that strike, strikes and generating a second window within the display, the second window comprising only polygons representing strikes that meet the strike criteria within the filter features is old and well known in the business world as a convenient way for individual or company to display essential data in a visual view. Therefore, it would have been obvious at the time of the invention to have included features to the method of Lupien

23. As per claim 41, Lupien et al., Richard et al. and Official Notice teach the method of Claim 40 described above. Lupien teaches: the criteria comprise at least one value specified in a being within a particular range of values and at least one of the bid and the ask matched to form a

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being from an approved market participant (see abstract). Lupien does not teach: strike.

Rickard et al. teaches: strike (columns 1-5).

Therefore, it would have been prima facie obvious at the time of the invention to have included strike feature to the method of Lupien et al., because Rickard et al. teaches that adding the feature helps determine a set of opening prices (abstract; columns 1-5).

24. As per claim 42, Lupien et al., Richard et al. and Official Notice teach the method of Claim 34 described above. Lupien et al. further teaches: wherein the criteria are provided by a user (see abstract). Lupien et al. does not teach: strike.

Rickard et al. teaches: strike (columns 1-5).

Therefore, it would have been prima facie obvious at the time of the invention to have included strike feature to the method of Lupien et al., because Rickard et al. teaches that adding the feature helps determine a set of opening prices (abstract; columns 1-5).

25. As per claim 43, Lupien et al., Richard et al. and Official Notice teach the method of Claim 34 described above. Lupien et al. further teaches wherein the market comprises an exchange-based market (column 6, lines 21-24).

26. As per claim 45, claim 45 is equivalent of claim 34. Please refer to claim 34 rejection described above.

27. As per claim 46, claim 46 is equivalent of claim 35. Please refer to claim 35 rejection described above.

28. As per claim 47, claim 47 is equivalent of claim 36. Please refer to claim 36 rejection described above.

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29. As per claim 48, claim 48 is equivalent of claim 37. Please refer to claim 37 rejection described above.

30. As per claim 49, claim 49 is equivalent of claim 38. Please refer to claim 38 rejection described above.

31. As per claim 50, claim 50 is equivalent of claim 39. Please refer to claim 39 rejection described above.

32. As per claim 51, claim 51 is equivalent of claim 40. Please refer to claim 40 rejection described above.

33. As per claim 52, claim 52 is equivalent of claim 41. Please refer to claim 41 rejection described above.

34. As per claim 53, claim 53 is equivalent of claim 42. Please refer to claim 42 rejection described above.

35. As per claim 54, claim 54 is equivalent of claim 43. Please refer to claim 43 rejection described above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARISSA LIU whose telephone number is (571)270-1370. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. L./

Examiner, Art Unit 3694

/James P Trammell/

Supervisory Patent Examiner, Art Unit 3694